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09/348,742	07/06/1999	EDWARD DZIEDZIC	7038	5687

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PAUL M DENK
763 SOUTH NEW BALLAS ROAD
ST LOUIS, MO 63141

EXAMINER

WUJCIAK, ALFRED J

ART UNIT PAPER NUMBER

3632

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/348,742
Filing Date: July 06, 1999
Appellant(s): DZIEDZIC, EDWARD

Mr. Paul M. Denk
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/2/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 2-6 and 8 do stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,09,051

Aldridge et al.

5-1988

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,098,051 to Aldridge et al.

Aldridge et al. discloses an aluminum (col. 7, line 5-7) stabilizer wire mount (53, figure 15) for attaching to a pole. The mount comprises a rectangular base plate (54, 55) having a top and bottom surface and a front and back edge. The top surface having an integral boss (62) positioned in center and at least one upwardly raised ribs (56, 57, 58,59) defining a channel (60 and 61). The bottom surface has a front and back edge (figure 15). The front and back edge

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having a pair of depending serrated edges (see attachment of Aldridge et al., figure 15, a). The mount has at least one band (2) seated in the channel and extending around the pole (see figure 17).

Aldridge et al. teaches the top surface of mount but fails to teach the top surface having an integral boss mounted thereon. Figure 13 of Aldridge et al.'s invention shows that the integral boss (50) with a loop (51) is mounted on the top surface of mount. The loop (51) on the base defines an opening therethrough. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the integral boss from figure 13 to figure 15 to provide a support for wire or cable on the mount when mounting on the pole.

(11) Response to Argument

With respect to appellant's argument on page 8 of the Brief stating that "With respect to Fig. 13, there is just no structure shown that provides an type of an integral boss that is positioned centrally and extend upwardly from the top surface of any base plate. The loop 51, of the prior patent, as can be seen, is not centrally located, and extend off at an angle." The examiner used figure 15 from Aldridge et al.'s invention as a base reference and figure 13 in Aldridge et al.'s invention was used as a secondary reference for modifying the fastener (64) in figure 15 with the loop (51) from figure 13 to provide support for supporting cable or wire. Figure 15 shows that the integral boss (62) is positioned centrally and extends upwardly from the top surface of the base plate (54-55).

The appellant argues that figure 15 from Aldridge et al.'s invention does not show the extending edges (56-59) extend upwardly from the top surface of the base member, but rather,

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extend inwardly. Since the extending edges are raised above of the top surface, they are considered as extending upwardly from the top surface. If the extending edges were extending inwardly then they would be touching the top surface of the base member or on a vertical part of the extending edges.

The appellant argues that Aldridge et al. does not teach “a pair of serrated edges that extend downwardly from the base plate, with one of each of the depending serrated edges being located proximate the front and back edges of the base plate, and extend longitudinally therewith.” Claim 8 did not state that the pair of depending serrated edges “extend longitudinally therewith,” just cited that the depending serrated edges on the bottom surface of the base plate, one of each pair extending downwardly from the front and back edges of the bottom surface. Aldridge shows that the bottom of base plate having a pair of serrated edges located on the front and back edges of the base plate. Figure 15 shows that the serrated edges are located on the edge of the bottom surface and that element 55 is considered as front edge and element 54 is considered as back edge.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



Joey Wujciak *ASW*
October 18, 2004

Conferees

LB *LB*

PC *Peter Cuomo* *PC*

LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER

PAUL M DENK
763 SOUTH NEW BALLAS ROAD
ST LOUIS, MO 63141